

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matters of	)	
	)	
ANN M. COUGHLIN	)	File Nos. D034057, D034058, D033753
d/b/a AFHJ LIMITED PARTNERS,	)	
	)	
CALIFORNIA 220 HOLDINGS I, L.C.,	)	File No. D033751
	)	
CALIFORNIA 220 HOLDINGS V, L.C.,	)	File No. D033755
	)	
CALIFORNIA 220 HOLDINGS VI, L.C.,	)	File No. D034048
	)	
CANDICE PARTNERSHIP,	)	File No. D033742
	)	
CLARENCE E. TROEGEL	)	File No. D033741
d/b/a STINSON COMMUNICATIONS,	)	
	)	
FISHTERRACE PARTNERSHIP,	)	File No. D033749
	)	
PACIFIC COAST 220 HOLDINGS II, L.C.,	)	File No. D034040
	)	
SNYDER PARTNERSHIP,	)	File No. D033748
	)	
WASHINGTON 220 HOLDINGS IV, L.C.,	)	File No. D034030
	)	
and	)	
	)	
S.K. WARREN COMMUNICATIONS, INC.	)	File No. D033730
	)	
Petitions for Reconsideration of Denial in Part	)	
of Modification Applications for	)	
Various Phase I 220 MHz Licenses	)	

**ORDER**

**Adopted: January 24, 2000**

**Released: January 24, 2000**

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. In this order, we address the following petitions for reconsideration: Ann M. Coughlin d/b/a AFHJ Limited Partners for Stations WPCX411, WPCD292 and WPCV737; California 220 Holdings I, L.C. for Station WPCX379; California 220 Holdings V, L.C. for Station WPCE542; California 220 Holdings VI, L.C. for Station WPCR689; Candice Partnership for Station WPCR249; Clarence E. Troegel d/b/a/ Stinson Communications for Station WPCD342; Fishterrace Partnership for Station WPCC796; Pacific Coast 220 Holdings II, L.C. for Station WPCCK280; Snyder Partnership, L.C. for Station WPFN918; Washington 220 Holdings IV, L.C. for Station WPCQ855; and S.K. Warren

Communications, Inc. for Station WPBN293 (collectively, the Petitioners).<sup>1</sup> Each petition seeks reconsideration of the denial in part of a modification application for an existing Phase I 220 MHz license. For reasons described below, we deny each of the petitions for reconsideration.

2. Petitioners are Phase I 220 MHz licensees who received Special Temporary Authority (STA) from the Commission to relocate their base stations from their originally licensed sites and to operate these stations at higher levels of effective radiated power (ERP) than authorized under their original licenses. Pursuant to the *220 MHz Second Report and Order*,<sup>2</sup> Petitioners submitted modification applications seeking permanent relocation to their STA locations sites.<sup>3</sup> In addition to requesting authority to permanently relocate to the STA site, Petitioners also requested permanent authority to operate at the higher ERP levels authorized under the STAs. On June 4, 1996, the former Land Mobile Branch (Branch) granted Petitioners' modification applications in part when it approved the relocation of each of the base stations, but denied Petitioners' requests to operate their stations at the STA ERP levels.

3. Petitioners seek reconsideration of the Branch's denial of the increases in ERP levels. Petitioners argue that the *220 MHz Second Report and Order* authorized the permanent grant of their STAs, including the technical specifications associated with those STAs, and that the Commission failed to give notice that it would not permit permanent changes to ERP at STA sites.<sup>4</sup> Moreover, Petitioners contend that retaining the ERP specified in the original license ignores the differences in the antenna height above average terrain (HAAT) between the original site and the relocation site.<sup>5</sup>

4. Since Petitioners filed their petitions for reconsideration, the Commission has addressed the issue of non-relocation modifications to Phase I 220 MHz licenses in a reconsideration of the *220 MHz Second Report and Order*.<sup>6</sup> Specifically, the Commission has stated that "[t]he *220 MHz Second Report and Order* did not provide for licensees to modify their authorizations for any other reason, such as to change their power or antenna height, since. . . such a ruling would have gone beyond the specific purpose for which the *220 MHz Second Report and Order* was adopted."<sup>7</sup> While we agree with

---

<sup>1</sup> All petitions for reconsideration, except for S.K. Warren Communications, were filed on July 8, 1996. S.K. Warren Communications filed its petition on July 3, 1996.

<sup>2</sup> See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, *Second Report and Order*, 11 FCC Rcd. 3668 (1996) (*220 MHz Second Report and Order*).

<sup>3</sup> See 47 C.F.R. § 90.753(c).

<sup>4</sup> See Petitions for Reconsideration at 4-5.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Implementation of Sections 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd. 14,659 (1998) (*220 MHz MO&O*).

<sup>7</sup> *Id.* at 14,647, ¶ 179.

Petitioners that the Commission envisioned the permanent grant of STAs in the *220 MHz Second Report and Order*, the grant of permanent authorization of the STAs also had to be consistent with the underlying intent of the relocation and modification procedures, *i.e.*, to provide relief to existing licensees but not to allow these licensees to enhance their position in the marketplace.<sup>8</sup> This limitation was especially true considering the Commission's decision to take the unusual step of allowing these licensees to file modification applications without providing an opportunity for other potential applicants to file competing initial applications.<sup>9</sup>

5. We disagree with the Petitioners' contention that the Commission was required to give notice that it would not permit permanent changes to ERP at STA sites. An STA, by definition, is a temporary authority, and the Commission's granting of an STA does not guarantee that the Commission will subsequently grant permanent authorization.<sup>10</sup> Moreover, even if permanent authorization to operate at an STA site was granted, there was no guarantee that the authorization would be at the STA ERP levels. As to the Petitioners' argument that retaining the ERP specified in the original license ignores the differences in HAAT between the original site and the relocation site, the Commission clarified that licensees seeking to relocate were permitted to modify the HAAT from their original authorization because it was highly unlikely that licensees who relocated their base stations would be able to install their antenna at the identical HAAT specified in their original authorizations.<sup>11</sup> However, the Commission pointed out that a licensee who relocates would not need to operate at the new site at a power level different from the level originally authorized, and therefore, maintained that a licensee could relocate its base station site and modify its HAAT, but could not modify its ERP.<sup>12</sup>

6. We note, however, that the Commission did recognize that the economic and technical viability of a licensee's service may rest upon the ability of the incumbent licensee to modify its authorization (*e.g.*, to relocate its base station, to change the ERP or HAAT of its base station).<sup>13</sup> As a result, the Commission decided to allow such modifications to occur as long as these modifications do not expand the 38 dBu service contour.<sup>14</sup> Therefore, once a Phase I licensee establishes its 38 dBu service contour at its new base station in accordance with the Commission's rules for relocation, it can take advantage of the flexibility provided in the *220 MHz MO&O*.<sup>15</sup>

---

<sup>8</sup> *Id.* at 14,648, ¶ 180.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 14,649, 14,653, ¶¶ 183, 193.

<sup>11</sup> *Id.* at 14,648, ¶ 181.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 14,616, ¶ 97.

<sup>14</sup> *Id.* at 14,615-19, ¶¶ 95-106. *See also* 47 C.F.R. § 90.745.

<sup>15</sup> *220 MHz MO&O* at 14,616-17, ¶ 98.

7. Accordingly, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405, and section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, IT IS ORDERED that the Petition for Reconsideration for Station WPCX411, filed by Ann M. Coughlin d/b/a AFHJ Limited Partners on July 8, 1996, the Petition for Reconsideration for Station WPCD292, filed by Ann M. Coughlin d/b/a AFHJ Limited Partners on July 8, 1996, the Petition for Reconsideration for Station WPCV737, filed by Ann M. Coughlin d/b/a AFHJ Limited Partners on July 8, 1996, the Petition for Reconsideration for Station WPCX379, filed by California 220 Holdings I, L.C. on July 8, 1996, the Petition for Reconsideration for Station WPCE542, filed by California 220 Holdings V, L.C. on July 8, 1996, the Petition for Reconsideration for Station WPCR689, filed by California 220 Holdings VI, L.C. on July 8, 1996, the Petition for Reconsideration for Station WPCR249, filed by Candice Partnership on July 8, 1996, the Petition for Reconsideration for Station WPCD342, filed by Clarence E. Troegel d/b/a/ Stinson Communications on July 8, 1996, the Petition for Reconsideration for Station WPCC796, filed by Fishterrace Partnership on July 8, 1996, the Petition for Reconsideration for Station WPCCK280, filed by Pacific Coast 220 Holdings II, L.C. on July 8, 1996, the Petition for Reconsideration for Station WPFN918, filed by Snyder Partnership, L.C. on July 8, 1996, the Petition for Reconsideration for Station WPCQ885, filed by Washington 220 Holdings IV, L.C. on July 8, 1996 and the Petition for Reconsideration for Station WPBN293, filed by S.K. Warren Communications, Inc. on July 3, 1996 are DENIED.

8. This action is taken pursuant to delegated authority as set forth in section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

FEDERAL COMMUNICATIONS COMMISSION

William W. Kunze  
Deputy Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau